

## CHAPTER 934

## S.B. No. 1071

## AN ACT

relating to requirements for voluntary payments of unemployment compensation contributions.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (d), Section 204.048, Labor Code, is amended to read as follows:

(d) An employer who elects to make a voluntary contribution for the recomputation of the employer's experience rate must make the contribution *as prescribed by rules adopted by the commission* ~~[not later than the 30th day after the date on which the commission mails to the employer the annual notice of the employer's experience rate]~~. The employer may not revoke the contribution after the date on which the commission uses the contribution to recompute the employer's experience rate.

SECTION 2. This Act takes effect September 1, 2003, and applies only to a voluntary payment for unemployment compensation contributions that is made on or after that date. A voluntary payment made before that date is governed by the law in effect on the date the payment was made, and the former law is continued in effect for that purpose.

Passed the Senate on April 16, 2003: Yeas 31, Nays 0; passed the House on May 23, 2003, by a non-record vote.

Approved June 20, 2003.

Effective September 1, 2003.

## CHAPTER 935

## S.B. No. 1090

## AN ACT

relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of existing equipment. The term does not include maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

(4) "Annual inspection" means an inspection of equipment performed in a 12-month period in accordance with the applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The term includes an acceptance inspection performed within that period.

(5) “ASCE Code 21” means the American Society of Civil Engineers Code 21 for people movers operated by cables.

(6) “ASME Code A17.1” means the American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.1.

(6-a) “Executive director” means the executive director of the department.

(7) [(2)] “ASME Code A17.3” means the 2002 American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.3.

(8) “ASME Code A18.1” means the American Society of Mechanical Engineers Safety Code for Platform Lifts and Stairway Chairlifts A18.1.

(9) [(3)] “Board” means the elevator advisory board.

(10) [(4)] “Commission” means the Texas Commission of Licensing and Regulation.

(11) [(5)] “Commissioner” means the commissioner of licensing and regulation.

(12) “Contractor” means a person engaged in the installation, repair, or maintenance of equipment. The term does not include an employee of a contractor or a person engaged in cleaning or any other work performed on equipment that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable.

(13) [(6)] “Department” means the Texas Department of Licensing and Regulation.

(14) “Equipment” means an elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

(15) “Industrial facility” means a facility to which access is primarily limited to employees or contractors working in that facility.

(16) [(7)] “Qualified historic building or facility” means a building or facility that is:

(A) listed in or eligible for listing in the National Register of Historic Places; or

(B) designated as a Recorded Texas Historic Landmark or State Archeological Landmark.

(17) [(8)] “Related equipment” means:

(A) automatic equipment that is used to move a person in a manner that is similar to that of an elevator, an ~~or~~ escalator, a chairlift, a platform lift, an automated people mover operated by cables, or ~~and includes~~ a moving sidewalk; and

(B) hoistways, pits, and machine rooms for equipment.

(18) “Serious bodily injury” means a major impairment to bodily function or serious dysfunction of any bodily organ or part requiring medical attention.

(19) “Unit of equipment” means one elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

Sec. 754.0111. EXEMPTION. (a) This subchapter does not apply to ~~[an elevator, escalator, or related]~~ equipment in a private building for a labor union, trade association, private club, or charitable organization that has two or fewer floors.

(b) This subchapter does not apply to an elevator located in a single-family dwelling, except as provided by Section 754.0141.

Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator advisory board is composed of nine members appointed by the *presiding officer of the commission* ~~[commissioner]~~ as follows:

(1) a representative of the insurance industry or a certified elevator inspector;

(2) a representative of ~~[elevator, escalator, and related]~~ equipment constructors;

(3) a representative of owners or managers of a *building* ~~[buildings]~~ having fewer than six stories and having ~~[an elevator, an escalator, or related]~~ equipment;

(4) a representative of owners or managers of a *building* ~~[buildings]~~ having six stories or more and having ~~[an elevator, an escalator, or related]~~ equipment;

- (5) a representative of independent ~~[elevator, escalator, and related]~~ equipment maintenance companies;
  - (6) a representative of ~~[elevator, escalator, and related]~~ equipment manufacturers;
  - (7) a *licensed or registered engineer or architect* ~~[representative of professional engineers or architects];~~
  - (8) a public member; and
  - (9) a public member with a physical disability.
- (b) Board members serve at the will of the *commission* ~~[commissioner]~~.
- (c) The *presiding officer of the commission* ~~[commissioner]~~ shall appoint a presiding officer of the board *to serve for two years*.
- (d) The board shall meet at least twice each calendar year.
- (e) A board member serves without compensation but is entitled to reimbursement for travel *as provided for in the General Appropriations Act* ~~[and other necessary expenses incurred in performing duties under this subchapter]~~.

Sec. 754.013. BOARD DUTIES. To protect public safety and to identify and correct potential hazards, the board shall advise the *commission* ~~[commissioner]~~ on:

- (1) the adoption of appropriate standards for the installation, alteration, operation, and inspection of ~~[elevators, escalators, and related]~~ equipment;
- (2) the status of ~~[elevators, escalators, and related]~~ equipment used by the public in this state; ~~[and]~~
- (3) *sources of information relating to equipment safety;*
- (4) *public awareness programs related to elevator safety, including programs for sellers and buyers of single-family dwellings with elevators, chairlifts, or platform lifts; and*
- (5) any other matter considered relevant by the *commission* ~~[commissioner]~~.

Sec. 754.014. STANDARDS ADOPTED BY COMMISSION ~~[COMMISSIONER]~~. (a) The *commission* ~~[commissioner]~~ shall adopt standards for the installation, *maintenance*, alteration, operation, and inspection of ~~[elevators, escalators, and related]~~ equipment used by the public in:

- (1) buildings owned or operated by the state, a state-owned institution or agency, or a political subdivision of the state; and
  - (2) buildings that contain ~~[an elevator, an escalator, or related]~~ equipment that is open to the general public, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.
- (b) Standards adopted by the *commission* ~~[commissioner]~~ may not contain requirements in addition to the requirements in the ASME Code A17.1, ~~[or]~~ ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. *The standards must allow alteration of existing equipment if the alteration does not diminish the safety of the equipment below the level required by this subchapter at the time of alteration.*
- (c) Standards adopted by the *commission* ~~[commissioner]~~ must require ~~[elevators, escalators, and related]~~ equipment to comply with the installation requirements of the ~~[following, whichever is the least restrictive:~~
- ~~[(1) the] ASME Code A17.1, ASME Code A18.1, or ASCE Code 21 that was in effect and applicable on the date of installation of the [elevators, escalators, and related] equipment[; or~~
  - ~~[(2) an applicable municipal ordinance governing the installation of elevators, escalators, and related equipment that was in effect on the date of installation].~~
- (d) Standards adopted by the *commission* ~~[commissioner]~~ must require ~~[elevators, escalators, and related]~~ equipment to comply with the installation requirements of the ~~[1994]~~ ASME Code A17.3 that contains minimum safety standards for all ~~[elevators, escalators, and related]~~ equipment, regardless of the date of installation.
- (e) *The executive director* ~~[On written request, the commissioner]~~ shall grant a delay for compliance with the applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or

*ASME Code A18.1* until a specified time if compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations adopted under that Act. *The accumulated total time of all delays may not exceed three years, except as provided by Subsection (f) or as allowed in the discretion of the executive director.*

(f) *The executive director* ~~[On written request, the commissioner]~~ shall grant a delay until September 1, 2005, for compliance with the requirements for door restrictors or firefighter's service in the ~~[1994]~~ ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation ~~[of the elevator, escalator, or related equipment]~~ and the ~~[that]~~ equipment was not subsequently installed ~~[by an owner of the elevator, escalator, or related equipment]~~.

(g) The executive director ~~[commissioner]~~ may grant a waiver of compliance from an applicable code requirement ~~[with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3]~~ if the executive director ~~[commissioner]~~ finds that:

(1) the building in which the ~~[elevator, escalator, or related]~~ equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building; ~~[and]~~

(2) noncompliance will not constitute a significant threat to passenger safety; and

(3) *noncompliance, with adequate alternative safeguards, will not constitute a significant threat to worker safety.*

(h) *The executive director shall grant a waiver of compliance if the noncompliance resulted from compliance with a municipal equipment construction code at the time of the original installation and the noncompliance does not pose imminent and significant danger.* The executive director ~~[commissioner]~~ may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the ~~[1994]~~ ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

(1) is used only for parking;

(2) is constructed of noncombustible materials; and

(3) is not greater than 75 feet in height.

(i) This subchapter does not apply to ~~[an elevator, an escalator, or related]~~ equipment in an industrial facility, or in a grain silo, radio antenna, bridge tower, underground facility, or dam, to which access is limited *primarily* ~~[principally]~~ to employees of or working in that facility or structure.

(j) ~~[The commissioner may charge a reasonable fee as set by the commission for an application for waiver or delay.]~~ One application for a waiver or delay may contain all requests related to a unit of equipment ~~[particular building]~~. A delay may not be granted indefinitely but must be granted for ~~[to]~~ a specified time *not to exceed three years*.

(k) For purposes of this section, the date of installation *or alteration of equipment* is the date that the owner of the real property entered into a contract for the *installation or alteration of the* ~~[purchase of the elevators, escalators, or related]~~ equipment. If that date cannot be established, the date of installation *or alteration* is the date of issuance of the municipal building permit under which the ~~[elevators, escalators, or related]~~ equipment was *installed or altered* ~~[constructed]~~ or, if a municipal building permit was not issued, the date that electrical consumption began for the construction of the building in which the ~~[elevators, escalators, or related]~~ equipment was installed.

*Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY DWELLINGS; REQUIRED INFORMATION.* (a) Elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as applicable, and must be inspected by a QEI-1 certified inspector after the installation is complete. The inspector shall provide the dwelling owner a copy of the inspection report.

(b) The commission shall, before January 1, 2004, adopt rules containing minimum safety standards that must be used by QEI-1 certified inspectors when inspecting elevators, chairlifts, and platform lifts installed in single-family dwellings.

(c) A municipality may withhold a certificate of occupancy for a dwelling or for the installation of the elevator or chairlift until the owner provides a copy of the QEI-1 inspection report to the municipality.

(d) A contractor is not required to report to the department any information concerning equipment in a single-family dwelling or the contractor's work on the equipment.

(e) On completing installation of equipment in a single-family dwelling, a contractor shall provide the dwelling owner with relevant information, in writing, about use, safety, and maintenance of the equipment, including the advisability of having the equipment periodically and timely inspected by a QEI-1 certified inspector.

(f) An inspection by a QEI-1 certified inspector of equipment in a single-family dwelling may be performed only at the request and with the consent of the owner. The owner of a single-family dwelling is not subject to Section 754.022, 754.023, or 754.024.

Sec. 754.015. RULES. (a) The commission ~~[commissioner]~~ by rule shall provide for:

(1) ~~an annual [the] inspection and certification of the [once each calendar year of elevators, escalators, and related] equipment covered by standards adopted under this subchapter;~~

(2) ~~[the] enforcement of those standards;~~

(3) ~~registration [the certification] of qualified [persons as] inspectors and contractors [for the purposes of this subchapter]; [and]~~

(4) the form of ~~[the] inspection documents, contractor reports, [report] and certificates [certificate] of compliance;~~

(5) ~~notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;~~

(6) ~~approval of continuing education programs for registered QEI-1 certified inspectors; and~~

(7) ~~standards of conduct for individuals who are registered under this subchapter.~~

(b) The commission ~~[commissioner]~~ by rule may not ~~[require that]:~~

(1) ~~require inspections of equipment to [inspection] be made more often than every 12 months, except as provided by Subsection (c) [once per year of elevators, escalators, and related equipment];~~

(2) ~~require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration; [and]~~

(3) ~~require building owners to submit to the department proposed plans for equipment installation or alteration; or~~

(4) ~~prohibit a QEI-1 certified inspector who is registered with the department from inspecting equipment.~~

(c) The commission by rule may require a reinspection or recertification of equipment if the equipment has been altered and poses a significant threat to passenger or worker safety or if an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the executive director.

(d) The executive director may charge a reasonable fee as set by the commission for:

(1) registering or renewing registration of an inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, for each day the report remains not filed after the date the report is due;

(5) applying for a waiver or delay; and

(6) attending a continuing education program sponsored by the department for registered QEI-1 inspectors ~~[inspection reports or certificates of compliance be placed in locations other than one provided in Section 754.019(4)].~~

Sec. 754.016. *INSPECTION REPORTS [REPORT] AND CERTIFICATES [CERTIFICATE] OF COMPLIANCE.* (a) *Inspection reports [An inspection report] and certificates [a certificate] of compliance required under this subchapter must cover all [elevators, escalators, and related] equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons. [There shall be only one inspection report and one certificate of compliance for each building.]*

(b) An inspector shall date and sign an inspection report and shall issue the report to the building owner *not later than the 10th calendar day after the date of inspection.* ~~[The inspection report shall be on forms designated by the commissioner.]~~

(c) The *executive director [commissioner]* shall date and sign a certificate of compliance and shall issue the certificate to the building owner. The certificate of compliance shall state:

- (1) that the ~~[elevators, escalators, and related]~~ equipment *has [have]* been inspected by a certified inspector and found by the inspector to be in compliance, except for any delays or waivers granted by the *executive director [commissioner]* and stated in the certificate;
- (2) *the date of the last inspection and the due date for the next inspection; and*
- (3) *contact information at the department to report a violation of this subchapter.*

(d) *The commission by rule shall:*

- (1) *specify what information must be contained in a certificate of compliance;*
- (2) *describe the procedure by which a certificate of compliance is issued;*
- (3) *require that a certificate of compliance related to an elevator be posted in a publicly visible area of the building; and*
- (4) *determine what constitutes a "publicly visible area" under Subdivision (3).*

Sec. 754.017. *CERTIFIED INSPECTORS.* (a) *In order to inspect equipment, an individual must:*

- (1) *be registered [An inspector must register] with the department;*
- (2) *attend educational programs approved by the department;*
- (3) *[and] be certified as a QEI-1 [an ASME QEI-1] inspector by an organization accredited by the American Society of Mechanical Engineers; and*
- (4) *pay all applicable fees. [Any certification charges or fees shall be paid by the inspector.]*

(b) ~~[The commissioner may not by rule prohibit an ASME QEI-1 certified inspector who is registered with the department from inspecting under this subchapter an elevator, an escalator, or related equipment.]~~ A person assisting a certified inspector *and working under the direct, on-site supervision of the inspector* is not required to be ~~[ASME QEI-1]~~ certified.

(c) *A registration expires on the first anniversary of the date of issuance.*

(d) *A certified inspector may not be required to attend more than seven hours of continuing education during each licensing period.* ~~[The commissioner may charge a \$15 fee to certified inspectors for registering with the department.]~~

Sec. 754.0171. *CONTRACTOR REGISTRATION.* (a) *A person may not install, repair, or maintain equipment without registering as a contractor with the department as required by this subchapter.*

(b) *A contractor shall submit an application for registration and pay appropriate fees to the department. The registration application form may require information concerning the background, experience, or identity of the applicant.*

(c) *A registration expires on the first anniversary of the date of issuance.*

(d) *A person registering as a contractor under this subchapter shall submit to the department an initial report, not later than the 60th day following the application date, containing:*

- (1) *the street address of each building or location at which the person performed installation, repair, alteration, or maintenance of equipment for the previous two years; and*
- (2) *the name and mailing address of the building owner.*

(e) After the initial report required by Subsection (d), a contractor registered as required by this subchapter shall submit to the department a quarterly report containing:

- (1) the street address of each building or location at which the contractor performed installation, repair, alteration, or maintenance of equipment not reported in the contractor's initial report to the department under Subsection (d); and
- (2) the name and mailing address of the building owner.

(f) Installation, repair, alteration, and maintenance standards for contractors must be consistent with ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

~~Sec. 754.0172. INSPECTION FEE. [(a) A person inspecting an elevator, an escalator, or related equipment under this subchapter may not charge more than \$65 per elevator cab or per escalator for each inspection.~~

~~[(b)] The amount charged for an inspection or the performance of an inspection of equipment under this subchapter may not be contingent on the existence of a maintenance contract between the person performing the inspection and any other person.~~

Sec. 754.018. POWERS OF MUNICIPALITIES. *Subject to Section 754.014(h), if [If] a municipality operates a program for the installation, maintenance, alteration, inspection, or [and] certification of [elevators, escalators, and related] equipment, this subchapter shall not apply to the [elevators, escalators, and related] equipment in that municipality, provided that the standards of installation, maintenance, alteration, inspection, and certification are at least equivalent to [no less stringent than] those contained in this subchapter.*

Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The owner of real property on which ~~[an elevator, an escalator, or related]~~ equipment covered by this subchapter is located shall:

(1) have the ~~[elevator, escalator, or related]~~ equipment inspected *annually* by a ~~[an ASME-QEI-1]~~ certified inspector ~~[in accordance with the commissioner's rules];~~

(2) obtain an inspection report from the inspector evidencing that all ~~[elevators, escalators, and related]~~ equipment in a building on the real property *was* ~~[were]~~ inspected in accordance with this subchapter and rules adopted under this subchapter;

(3) file with the *executive director* ~~[commissioner a copy of]~~ each inspection report, *and all applicable fees, [and a \$20 filing fee for each report, plus \$5 for each elevator, escalator, or related equipment]* not later than the 60th day after the date on which an inspection is made under this subchapter;

(4) display the certificate of compliance:

(A) in a *publicly visible area of the building, as determined by commission rule under Section 754.016, [the elevator mechanical room]* if the certificate relates to an elevator;

(B) in the escalator box if the certificate relates to an escalator; or

(C) in a place designated by the *executive director* ~~[commissioner]~~ if the certificate relates to ~~[related]~~ equipment *other than an elevator or escalator*; and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued ~~[by the commissioner]~~.

(b) When an inspection report is filed ~~[with the commissioner]~~, the owner shall submit to the *executive director, as applicable* ~~[commissioner]~~:

(1) verification that any deficiencies in the inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an applicable standard.

(c) ~~[An inspection must be made not later than 18 months after the previous calendar year's inspection. This subsection does not affect the requirement that elevators, escalators, or related equipment be inspected at least once each calendar year.]~~

~~[(d)] For the purpose of determining timely filing under Subsection (a)(3) and Section 754.016(b), an inspection report and filing fees [fee] are considered filed on the earlier of:~~

~~(1) the date of personal delivery;~~

(2) the date of postmark ~~[mailing]~~ by United States mail if properly addressed to the executive director; or

(3) the date of deposit with a commercial courier service, if properly addressed to the executive director ~~[commissioner]~~.

~~(d) [(e) If the inspection report and fee required by Subsection (a)(3) are not timely filed, the commissioner may charge the owner of the real property on which the elevator, escalator, or related equipment is located an additional \$100 fee for late filing.~~

~~[(f) The commissioner may not require that an inspection report or certificate of compliance be placed inside or immediately outside an elevator cab or escalator or in the lobby or hallways of a building.~~

~~[(g)]~~ A fee may not be charged or collected for a certificate of compliance for an institution of higher education as defined in Section 61.003, Education Code.

(e) An owner shall report to the department each accident involving equipment not later than 72 hours following the accident.

Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES]~~. The executive director may appoint a chief elevator inspector to administer the equipment inspection and registration program. The chief elevator inspector:

(1) may not have a financial or commercial interest in the manufacture, maintenance, repair, inspection, installation, or sale of equipment; and

(2) must possess a QEI-1 certification or obtain the certification within six months after becoming chief inspector ~~[Fees collected under this subchapter shall be deposited to the credit of an account in the general revenue fund that may be used by the commissioner only to administer and enforce this subchapter and to reimburse expenses of board members provided by this subchapter].~~

Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS ~~[; PERSONNEL]~~. The executive director shall ~~[commissioner may]~~:

(1) compile a list of ~~[ASME QEI-1]~~ certified inspectors and contractors who are registered with the department ~~[to perform an inspection under this subchapter]; and~~

(2) employ personnel who are ~~[as]~~ necessary to enforce this subchapter.

Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department ~~[commissioner]~~ learns of a situation of noncompliance under Section 754.019, the department ~~[commissioner]~~ shall send notice by certified mail of the noncompliance and the actions required to remedy the noncompliance to the record owner of the real property on which the equipment that is the subject of the noncompliance is located.

Sec. 754.023. INVESTIGATION; REGISTRATION ~~[LICENSE]~~ PROCEEDINGS; INTERRUPTION; EMERGENCY ORDERS. (a) If there is good cause for the executive director ~~[commissioner]~~ to believe that ~~[an elevator, an escalator, or related]~~ equipment on real property poses an imminent and significant danger ~~[is dangerous]~~ or that an accident involving ~~[an elevator, an escalator, or related]~~ equipment occurred on the property and serious bodily injury or property damage resulted, the executive director ~~[the commissioner]~~ may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the ~~[elevator, escalator, or related]~~ equipment or investigate the danger or accident at no cost to the owner.

(b) The executive director ~~[commissioner]~~ may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commission ~~[commissioner]~~ may deny, suspend, or revoke a ~~[the]~~ registration under this subchapter and may assess an administrative penalty ~~[of any ASME QEI-1 certified inspector]~~ for:

(1) obtaining registration with the executive director ~~[commissioner]~~ by fraud or false representation;

(2) falsifying a ~~[any inspection]~~ report submitted to the executive director ~~[commissioner]~~; or



(3) violating this subchapter or a rule adopted under this subchapter.

(d) *Proceedings for the denial, suspension, or revocation of a registration and appeals from those proceedings are governed by Chapter 2001, Government Code.*

(e) The executive director [~~commissioner~~] is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(f) [~~(e)~~] The executive director [~~commissioner~~] may bring suit in a district court in Travis County or in the county in which the violation or threatened violation occurs. If requested, the attorney general shall represent the executive director [~~commissioner~~] in the suit.

(g) *The executive director may issue an emergency order as necessary to enforce this subchapter if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.*

(h) *The executive director may issue an emergency order with simultaneous notice and without hearing or with the notice and opportunity for hearing practicable under the circumstances.*

(i) *If an emergency order is issued under this section without a hearing, the executive director shall set the time and place for a hearing to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued.*

(j) *An emergency order may direct a building owner or manager to disconnect power to or lock out equipment if:*

(1) *the department determines imminent and significant danger to passenger safety exists if action is not taken immediately and reasonable effort has been made for voluntary compliance by notification to the building owner or manager of the danger before the issuance of an emergency order; or*

(2) *an annual inspection has not been performed in more than two years and:*

(A) *the department gives the building owner or manager, or the agent of the building owner or manager, 60 days' written notice by certified mail directing the equipment to be inspected according to this subchapter; and*

(B) *after the expiration of the notice period under Paragraph (A), the department gives the building owner or manager, or the agent of the building owner or manager, written notice by certified mail stating that an order to disconnect power or lock out equipment will be made after the seventh day after the date notice is delivered.*

(k) *If an emergency order to disconnect power or lock out equipment is issued, the building owner or manager may have the power reconnected or the equipment unlocked only if:*

(1) *a registered inspector or contractor or a department representative has filed a written form with the department verifying the imminent and significant danger has been removed by repair, replacement, or other means; and*

(2) *the building owner, before the reconnection of power or unlocking of equipment, reimburses the department for all expenses incurred relating to the disconnection of power or lockout.*

(l) *The executive director or the executive director's designee may allow delayed payment if the building owner or manager commits in writing to pay the department for the expenses required by Subsection (k) not later than the 10th day after the date power is reconnected or equipment is unlocked.*

(m) *If an emergency order to disconnect power or lock out equipment is issued and the building owner later notifies the department that the imminent and significant danger no longer exists, the executive director or the executive director's designee shall, after the requirements of Subsection (k) are satisfied, promptly issue written permission to reconnect power or unlock the equipment and notify the owner.*

Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an offense if the person receives notice of noncompliance under Section 754.022 and the person has not remedied the

noncompliance or entered into a bona fide contract to remedy the noncompliance before the 61st day after the date on which the notice is received.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day of an offense under Subsection (a) constitutes a separate offense.

*Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53, Occupations Code, applies to a registration under this subchapter.*

SECTION 2. Not later than December 1, 2003, the Texas Commission of Licensing and Regulation shall adopt the rules required by Section 754.016 and Subsection (a), Section 754.019, Health and Safety Code, as amended by this Act.

SECTION 3. The changes in law made by this Act apply only to an inspection report or certificate of compliance issued on or after the effective date of this Act. An inspection report or certificate issued before the effective date of this Act is covered by the law in effect when the report or certificate was issued and is valid until the renewal date of that report or certificate under the terms of the former law, and the former law is continued in effect for that purpose. On renewal, an inspection report or certificate is subject to Chapter 754, Health and Safety Code, as amended by this Act.

SECTION 4. (a) This Act takes effect September 1, 2003, except that:

(1) a contractor is not required to be registered under Section 754.0171, Health and Safety Code, as amended by this Act, before January 1, 2004; and

(2) an escalator constructed before September 1, 2003, is not required to comply with step/skirt index requirements imposed under the 2002 American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.3 before September 1, 2009.

(b) A member of the elevator advisory board serving on the effective date of this Act continues to serve until removed by the governor or until the member's successor is appointed by the governor.

Passed the Senate on April 9, 2003, by a viva-voce vote; passed the House on May 16, 2003, by a non-record vote.

Approved June 20, 2003.

Effective September 1, 2003.

## CHAPTER 936

### S.B. No. 1252

#### AN ACT

relating to the regulation of certain activities associated with providing private security.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 1702.002, Occupations Code, is amended by amending Subdivisions (1) and (6) and adding Subdivision (6-a) to read as follows:

(1) "Alarm system" means:

(A) *electronic equipment and devices designed to detect or signal:*

(i) *an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or*

(ii) *the occurrence of a robbery or other emergency;*

(B) *electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business; or*

(C) *a television camera or still camera system that records, archives, or monitors property or individuals in a public or private area of a residence or business [an alarm system, burglar alarm signal device, burglar alarm, robbery alarm, television camera, or*